

EXHIBIT A

Filed 6/12/2014 12:08:26 PM
 Dana DeBeauvoir
 Travis County Clerk
 C-1-CV-14-005346
 Blair Hicks

NO. C-1-CV-14-005346

JAIDRO ROQUE,
Plaintiff

IN THE COUNTY COURT AT LAW

V.

NO. 2

NEW 888 RESTAURANT, L.L.C.
 (d/b/a 888 PAN ASIAN RESTAURANT),
 KEVIN LE, AND LIEN TRAN
Defendants

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OF TRAVIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE COURT:

Now comes Jaidro Roque, Plaintiff in the above-styled action, complaining of the conduct of Defendants, and for cause of action respectfully shows this Court as follows:

INTRODUCTION

1. This is a suit brought by the Plaintiff, Jaidro Roque, against the Defendants New 888 Restaurant L.L.C. (d/b/a 888 Pan Asian Restaurant), Kevin Le, and Lien Tran who regularly employed Mr. Roque for more than 40 hours per week at the 888 Pan Asian Restaurant in Austin, Texas, but consistently failed to pay him the minimum wages and overtime pay required by law. The Plaintiff seeks to recover his unpaid minimum wages and overtime pay, plus liquidated damages, interest, costs, and attorney fees as provided by law.

PARTIES

2. Plaintiff JAIDRO ROQUE is an individual residing in Travis County, Texas.

3. Defendant NEW 888 RESTAURANT, L.L.C. is a domestic limited liability company incorporated under the laws of the State of Texas and doing business in Texas. Defendant may be served by serving its registered agent, Kevin Le, at 2400 E. Oltorf, Suite 1-A, Austin, TX 78741.

4. Defendant KEVIN LE is an individual residing in Travis County, Texas. He may be served at his residence at 1903 Parker Ln, Austin, TX 78741.

5. Defendant LIEN TRAN is an individual residing in Travis County, Texas. She may be served at her residence at 1903 Parker Ln, Austin, TX 78741.

JURISDICTION

6. This court has jurisdiction to hear the merits of Plaintiffs' claims under 29 U.S.C. § 216(b). Plaintiffs seek monetary relief within the court's jurisdictional limits. Specifically, Plaintiffs seek monetary relief between \$100,000 and \$200,000. Plaintiffs reserve the right to amend their claim for relief as evidence develops or damages or attorney's fees increase.

VENUE

7. Venue is proper in Travis County, Texas. A substantial part of the Plaintiff's employment by, and/or work for the Defendants took place in Austin, Travis County, Texas and a substantial part of Defendants' actions violating the Plaintiff's employment rights occurred in Austin, Travis County, Texas. In addition, the Defendants reside and do business in Travis County, Texas.

DISCOVERY CONTROL PLAN

8. The Plaintiff intends for this suit to be conducted under Discovery Level 2, pursuant to TEX. R. CIV. P. 190.3.

REQUEST FOR DISCLOSURE

9. The Plaintiff requests that Defendants serve upon the Plaintiff, within 50 days of receipt of this petition, disclosure of all information listed under Rule 194.2(a)-(j) of the TEXAS RULES OF CIVIL PROCEDURE as required under Rule 194.2 of the TEXAS RULES OF CIVIL PROCEDURE.

FACTS

10. From June 2012 through approximately March 2013 (the "relevant period"), the Plaintiff was employed as a kitchen worker in the Defendants' restaurant, known as 888 Pan Asian Restaurant and located at 2400 East Oltorf Street, Suite 1-A, Austin, Travis County, Texas.

11. At all times during the relevant period, Plaintiff's employment by 888 Pan Asian Restaurant was covered by the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.

12. At all times during the relevant period, 888 Pan Asian Restaurant has had two or more employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce and has had an annual gross volume of sales made or business done of not less than \$500,000.

13. At all times during the relevant period, Plaintiff's employment was covered by the Texas Minimum Wage Act, Chapter 62 of the TEX. LABOR CODE.

14. At all times during the relevant period, each of the Defendants was an employer of the Plaintiff within the meaning of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., and the Texas Minimum Wage Act, Chapter 62 of the TEX. LABOR CODE.

15. Defendant New 888 Restaurant, L.L.C. formally owns and operates 888 Pan Asian Restaurant and controls all of its employment matters.

16. Defendants Kevin Le and Lien Tran each possess the power to hire and fire employees of 888 Pan Asian Restaurant, supervise and control employee work schedules and conditions of employment, determine the rate and method of payment, and maintain employment records.

17. In performing his duties as an employee of the Defendants, the Plaintiff regularly worked more than 40 hours per week. The Defendants did not pay the Plaintiff any overtime pay for hours the Plaintiff worked in excess of 40 hours a week, even though Defendants are required to do so by law.

18. Moreover, the Defendants compensated the Plaintiff at a rate so low that the Plaintiff's earnings frequently fell below the minimum wage required by state and federal law.

CAUSES OF ACTION

19. The above-described actions of the Defendants violated the Plaintiff's rights under the Fair Labor Standards Act, for which Plaintiff is entitled to relief pursuant to 29 U.S.C. § 216(b).

20. The above-described actions of the Defendants violated the Plaintiff's rights under the Texas Minimum Wage Act, for which Plaintiff is entitled to relief pursuant to TEX. LABOR CODE §62.201 and §62.205.

21. The Plaintiff has fulfilled all prerequisites and/or requirements to bringing this suit and obtaining the relief sought herein.

ATTORNEY'S FEES

22. As a result of the Defendants' actions, the Plaintiff has had to engage counsel to pursue his claim and protect his legal rights. Pursuant to the Fair Labor Standards Act and the Texas Minimum Wage Act, the Plaintiff is entitled to recover from the Defendants all reasonable and necessary attorneys' fees and expenses, including but not limited to attorneys' fees in any appeal.

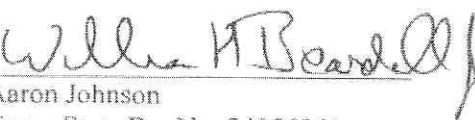
PRAYER

23. WHEREFORE, PREMISES CONSIDERED, the Plaintiff respectfully prays that the Defendants be cited to appear and answer, and that, upon final trial, the Plaintiff have judgment against the Defendants within the jurisdictional limits of this Court for:

- a. the amount of the Plaintiff's unpaid minimum wage and overtime compensation;
- b. an equal amount in liquidated damages;
- c. post-judgment interest as provided by law;
- d. costs of court, attorney fees and expenses, and;

e. such other and further relief, at law or in equity, to which the Plaintiff may justly be entitled.

Respectfully submitted,

By: 

Aaron Johnson

Texas State Bar No. 24056961

ajohnson@equaljusticecenter.org

William H. Beardall, Jr.

Texas State Bar No. 01980600

bbeardall@equaljusticecenter.org

EQUAL JUSTICE CENTER and

TRANSNATIONAL WORKER RIGHTS CLINIC

510 S. Congress Ave., Suite 206

Austin, Texas 78704

Tel.: (512) 474-0007 ext-104

Fax: (512) 474-0008

Counsel for Plaintiff

CIVIL CASE INFORMATION SHEET


CAUSE NUMBER (FOR CLERK USE ONLY): _____

COURT (FOR CLERK USE ONLY): _____

STYLED JAIDRO ROQUE V. NEW 888 RESTAURANT, L.L.C. (D/B/A/ 888 PAN ASIAN RESTAURANT), KEVIN LE, AND LIEN TRAN

(e.g., John Smith v. All American Insurance Co.; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet: Name: Aaron Johnson Address: 510 S. Congress Ave., Ste 206 City/State/Zip: Austin, TX 78704 Signature:  Email: ajohnson@equaljusticecenter.org Telephone: (512) 474-0057 Fax: (512) 474-0008 State Bar No: 24056961		Names of parties in case: Plaintiff(s)/Petitioner(s): Jaidro Roque Defendant(s)/Respondent(s): New 888 Restaurant, L.L.C., Kevin Le, Lien Tran (Attach additional page as necessary to list all parties)		Person or entity completing sheet is: <input type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other Additional Parties in Child Support Case: Custodial Parent: Non-Custodial Parent: Presumed Father:	
2. Indicate case type, or identify the most important issue in the case (select only 1):					
Civil			Family Law		
Contract <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract:	Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability <input type="checkbox"/> List Product: <input type="checkbox"/> Other Injury or Damage:	Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other:	Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other:	Post-judgment Actions (non-Title IV-D) <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocals (UIFSA) <input type="checkbox"/> Support Order Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Paternity/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child:	
Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input checked="" type="checkbox"/> Other Employment: FLSA and TMWA	Other Civil <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetrate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other:				
Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax:	Probate & Mental Health Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other:				
3. Indicate procedure or remedy, if applicable (may select more than 1):					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	
4. Indicate damages sought (do not select if it is a family law case):					
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input checked="" type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000					

CONSENT TO FILE SUIT UNDER THE FAIR LABOR STANDARDS ACT

I hereby give my consent to become a party plaintiff in a lawsuit under the Fair Labor Standards Act to recover unpaid wages for work I performed at NEW 888 RESTAURANT, L.L.C. (d/b/a 888 PAN ASIAN RESTAURANT) in Austin, Texas, during the last two years.



Jaidro Roque, Plaintiff

Date: 6-11-14

Translator's Certificate

I certify that I am fluent in English and Spanish, that I translated this document into Spanish for Plaintiff, whose name and signature appears above, and that he/she indicated that he/she clearly understood its contents and significance.

Translator

Signature: 

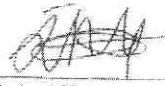
Date: 6-11-14

Name: Fernando Salcedo

Verification

My name is Jaidro-Rogues, my date of birth is 10-25-87 and
my address is 540 S. Congress Ave Austin TX 78704 I declare under penalty of
perjury that the factual statements in the attached petition are true and correct.

Executed in Travis County, State of Texas, on 6-11-14



Plaintiff

Translator's Certificate

My name is Fernando Salcedo my date of birth is 10/09/88 and
my address is 3200 S. 1st Apt 515 Austin TX 78704 I declare under penalty of
perjury that I am fluent in English and Spanish, that I translated this document to the Plaintiff in
Spanish, and that the Plaintiff indicated that the Plaintiff clearly understood its contents and
significance.

Executed in Travis County, State of Texas, on 6/11/14

Translator's signature: 

Translator's name: 6/11/14

Filed: 7/6/2014 4:37:55 PM
Dana DeBeauvoir
Travis County Clerk
C-1-CV-14-005346
Catherine Jones

NO. C-1-CV-14-005346

**JAIDRO ROQUE,
Plaintiff**

§ IN THE COUNTY COURT AT LAW

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NO. 2

§

**NEW 888 RESTAURANT, L.L.C.
(d/b/a 888 PAN ASIAN RESTAURANT),
KEVIN LE, AND LIEN TRAN,
Defendants**

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OF TRAVIS COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER

NOW COMES New 888 Restaurant, L.L.C. d/b/a 888 Pan Asian Restaurant, named
“Defendant”, in the above-entitled and numbered cause, and files this Original Answer, and
shows the Court:

GENERAL DENIAL

1. Defendant denies each and every allegation of Plaintiff's Original Petition, and
demands strict proof thereof as required by the Texas Rules of Civil Procedure.

AFFIRMATIVE DEFENSES

By way of further answer, if any is needed, the Defendant shows the following:

2. Defendant pleads payment as an affirmative defense.

3. Plaintiff was an exempt employee from overtime pursuant to the statutory exemptions under the Fair Labor Standards Act.

4. Defendant had a reasonable and good faith belief that Plaintiff was an exempt employee from overtime pursuant to the statutory exemptions under the Fair Labor Standards Act and further that Defendant's conduct did not violate the Fair Labor Standards Act, state or federal law.

5. Defendant relied in good faith on written administrative regulation, order, ruling, approval, or interpretation issued by the Department of Labor Wage and Hour Division as per 29 U.S.C. §259.

6. Defendant does not believe that it is an "employer" for the purposes of the Fair Labor Standards Act.

7. Plaintiff's claims are barred by the doctrine of estoppel.

8. Plaintiff's claims are barred by waiver.

9. Defendant claims a setoff and credit to the extent of any wages already received by Plaintiff.

10. Plaintiff's claims are barred by accord and satisfaction.

11. Plaintiff's claims are barred under the doctrine of unclean hands.

12. Plaintiff's claims are barred under the doctrine of after-acquired evidence.

13. Defendant's actions were taken for legitimate non-discriminatory and non-retaliatory reasons.

14. Defendant alleges it is not an "employer" as per Title VII (42 U.S.C. 2000) or

under Chapter 21 of the Texas Labor Code.

Denial of Conditions Precedent

15. Defendant alleges that Plaintiff has failed to exhaust all administrative remedies and therefore this Court lacks subject-matter jurisdiction over the claims of Plaintiff.

PRAYER

Defendant prays the Court, and after notice and hearing or trial, enters judgment in favor of Defendant, awards Defendant the costs of court, attorney's fees, and such other and further relief as Defendant may be entitled to in law or in equity.

Respectfully submitted,

By: /s/Brent A. Devere

Brent A. Devere

SBN# 00789256

1411 West Avenue, Suite #200

Austin, Texas 78701

Ph: 512-457-8080 Fax: 512-457-8060

Email: BDevere@1411west.com

Attorney for Defendant

*New 888 Restaurant, L.L.C. d/b/a 888 Pan Asian
Restaurant*

CERTIFICATE OF SERVICE

I certify that on July 7, 2014 a true and correct copy of Defendant's Original Answer was served by the electronic court filing system and/or facsimile transmission on the following party:

Aaron Johnson

VIA FAX: 512-474-0008

ajohnson@equaljusticecenter.org

William H. Beardall, Jr.

bbeardall@equaljusticecenter.org

Equal Justice Center and Transnational Worker Rights Clinic

510 S. Congress Avenue, Suite #206

Austin, Texas 78704

/s/Brent A. Devere

Brent A. Devere

NO. C-1-CV-14-005346

JAIDRO ROQUE,
Plaintiff

§ **IN THE COUNTY COURT AT LAW**

§

§

§

§ **NO. 2**

§

NEW 888 RESTAURANT, L.L.C.
(d/b/a 888 PAN ASIAN RESTAURANT),
KEVIN LE, AND LIEN TRAN,
Defendants

§

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§

OF TRAVIS COUNTY, TEXAS

DEFENDANTS' ORIGINAL ANSWER

NOW COME Kevin Le and Lien Tran, named "Defendants", in the above-entitled and numbered cause, and file this Original Answer, and show the Court:

GENERAL DENIAL

1. Defendants deny each and every allegation of Plaintiff's Original Petition, and demand strict proof thereof as required by the Texas Rules of Civil Procedure.

AFFIRMATIVE DEFENSES

By way of further answer, if any is needed, the Defendants show the following:

2. Defendants plead payment as an affirmative defense.
3. Plaintiff was an exempt employee from overtime pursuant to the statutory

exemptions under the Fair Labor Standards Act.

4. Defendants had a reasonable and good faith belief that Plaintiff was an exempt employee from overtime pursuant to the statutory exemptions under the Fair Labor Standards Act and further that Defendants' conduct did not violate the Fair Labor Standards Act, state or federal law.

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6. Defendants do not believe that they are an "employer" for the purposes of the Fair Labor Standards Act.

7. Plaintiff's claims are barred by the doctrine of estoppel.

8. Plaintiff's claims are barred by waiver.

9. Defendants claim a setoff and credit to the extent of any wages already received by Plaintiff.

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12. Plaintiff's claims are barred under the doctrine of after-acquired evidence.

13. Defendants' actions were taken for legitimate non-discriminatory and non-retaliatory reasons.

14. Defendants allege they are not an "employer" as per Title VII (42 U.S.C. 2000) or under Chapter 21 of the Texas Labor Code.

Denial of Conditions Precedent

15. Defendants allege that Plaintiff has failed to exhaust all administrative remedies and therefore this Court lacks subject-matter jurisdiction over the claims of Plaintiff.

PRAYER

Defendants pray the Court, and after notice and hearing or trial, enters judgment in favor of Defendants, awards Defendants the costs of court, attorney's fees, and such other and further relief as Defendants may be entitled to in law or in equity.

Respectfully submitted,

By: /s/Nancy L. Perry
SBN#24041680
4408 Spicewood Springs
Austin, Texas 78759
Ph: 512-342-2717 Fax: 512-233-1777
Email: N.Perry@nlplaw.com
Attorney for Defendants

Kevin Le & Lien Tran

CERTIFICATE OF SERVICE

I certify that on July 7, 2014 a true and correct copy of Defendants' Original Answer was served by the electronic court filing system and/or facsimile transmission on the following parties:

Aaron Johnson

VIA FAX: 512-474-0008

ajohnson@equaljusticecenter.org

William H. Beardall, Jr.

bbeardall@equaljusticecenter.org

Equal Justice Center and Transnational Worker Rights Clinic

510 S. Congress Avenue, Suite #206

Austin, Texas 78704

/s/Nancy L. Perry

Nancy L. Perry